

Order

Michigan Supreme Court
Lansing, Michigan

September 26, 2008

Clifford W. Taylor,
Chief Justice

130702

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DARCY A. DIOT,
Plaintiff-Appellee,

v

SC: 130702
COA: 264781
WCAC: 04-000028

DEPARTMENT OF CORRECTIONS, BROOKS
REGIONAL CORRECTIONAL FACILITY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 31, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE in part the prior decisions of the worker's compensation tribunals and we REMAND this case to the Board of Magistrates for a new hearing regarding the plaintiff's entitlement to worker's compensation benefits for the closed period from July 17, 2002 to March 25, 2003, consistent with this Court's decisions in *Stokes v Chrysler LLC*, 481 Mich 266 (2008), and *Robertson v DaimlerChrysler Corp*, 465 Mich 732 (2002).

We do not retain jurisdiction.

CAVANAGH and KELLY, JJ., would deny leave to appeal.

WEAVER, J. (*dissenting*).

I dissent from the order vacating in part the decisions of the workers' compensation tribunals and remanding this case to the Board of Magistrates for a new hearing regarding the plaintiff's entitlement to workers' compensation benefits for the closed period from July 17, 2002, to March 25, 2003, consistent with this Court's decisions in *Stokes v Chrysler LLC*, 481 Mich 266 (2008), *Robertson v DaimlerChrysler Corp*, 465 Mich 732 (2002), and *Gardner v Van Buren Public Schools*, 445 Mich 23 (1994).

Because I dissented from the majority opinion in *Stokes v Chrysler LLC*, I vote to grant leave to appeal in this case to consider whether a majority of this Court reached the correct decision in *Stokes*.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 26, 2008

Corbin R. Davis

Clerk